

LIVONIA JOINT ZONING BOARD OF APPEALS
April 3, 2023

Present: Chairperson R. Bergin, D. Major, J. Prato, M. Thompson, CEO A. Backus, Zoning Compliance Assistant Julie Holtje, Recording Secretary A. Houk

Excused: M. Sharman, Attorney J. Campbell.

AGENDA: ***(1) Accept and approve the meeting minutes of March 6, 2023***

(2) Brian Cohen – 113 Kensington Court, Livonia, NY

(3) Timothy VanVoorhis – 3592 Shoreline Drive, Livonia, NY

Chairperson Rosemary Bergin brought the meeting to order at 7:00 p.m. and opened with the Pledge of Allegiance & welcomed new Board Member Mary Ann Thompson.

Chairperson Rosemary Bergin asked if everyone reviewed the meeting minutes from March 6, 2023. The Board agreed they had, and a motion was made to approve. M/2/C (J. Prato/R. Bergin) Carried: 4-0.

(1) Brian Cohen – 113 Kensington Court, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **April 3, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Brian Cohen** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 506 Sq. Ft. Addition which will violate the side Setback (12' instead of 15') This property is located at **113 Kensington Court, Livonia**, New York, and is zoned Neighborhood Residential District (NR). The application is on file in the Building Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

Chairperson Rosemary Bergin polled the Board for site visits:

M. Sharman:	Excused
R. Bergin:	Yes
D. Major:	Yes
J. Prato	Yes
M. Thompson	Yes

Chairperson Rosemary Bergin asked Jocelyn and Barbara Cohen to come forward for the proposed 506 Sq. Ft in-law Addition. Barbara stated that she moved in with Brian & Jocelyn at the end of June last year. Due to her age, the stairs are becoming difficult for her to manage. They are requesting an in-law addition on the main level to make it easier for her. Doug Major

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asked how the Addition fits with the existing inground pool. Jocelyn stated that according to their builder, moving the Addition over would conflict with the Garage. Doug stated that his understanding is that the Addition is one story, and the house is two stories. The design of the roof line on the one-story, if moved in, further impedes a second-story window. Jocelyn confirmed that was correct. The Board reviewed the proposed plans and confirmed that if the Addition were moved in 3' closer, it would impede the window. CEO Adam Backus asked if the two windows were bedrooms. Jocelyn confirmed that they were. Doug asked if their fence is currently on their lot line. Jocelyn confirmed that it was on the property line. They will keep the fence where it is currently, and the new building will be inside the fence. Mary Ann asked if the sidewalk would also remain; Jocelyn confirmed the sidewalk would be staying in the place where it is now. The Board had a brief discussion regarding the application and confirmed that the applicant was asking for 3' of relief. Instead of a 15' side setback, it would be a 12' side setback. Doug asked if the new Addition was a single room. Jocelyn stated that it would have a bathroom, kitchen, and living area, as well as a bedroom.

Chairperson Rosemary Bergin opened the Public Hearing. With no one wishing to speak, the Public Hearing was closed.

Chairperson Rosemary Bergin asked the Board if there were any further questions.

This application was determined not to require Livingston County Planning Board review per Section 239-m and 239-n of Article 12 of the General Municipal Law agreement (# 3).

This application was determined to be a Type II action, and SEQOR was not required per # 16 & # 17 of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

Chairperson Rosemary Bergin asked the Board to go through the area variance criteria:

1. Will an undesirable change be produced in the character of the neighborhood, or will a detriment to nearby properties be created by granting the variance? No
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? Yes, they could build a smaller Addition.
3. Is the variance substantial? No
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

Chairperson Rosemary Bergin asked the Board for a motion to approve or disapprove the proposed Area Variance for the 506 Sq. Ft. in-law Addition. Doug Major made a motion to

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approve the Area Variance as submitted. Motion to approve. M/2/C (D. Major/M. Thompson)
Carried: 4-0.

(2) Timothy VanVoorhis – 3592 Shoreline Drive, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday, **April 3, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Tim VanVoorhis** for a for an area variance pursuant to Section 150-17C and a Conditional Use Permit pursuant to Section 150-17 B of the Zoning Code of Livonia. A Conditional Use Permit is requested for the two-story Accessory Dwelling in a detached Garage per Section 150-31 D (1). An area variance is requested for a proposed two-story Garage/Accessory Dwelling unit, as it exceeds 40% of the area of the principal dwelling unit according to Section 150-60 (D). This property is located at **3592 Shoreline Drive**, Livonia, New York, Tax Parcel # 74.25-1-71, and is Zoned Neighborhood Residential District (NR). The application is on file in the Building & Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

Chairperson Rosemary Bergin polled the Board for site visits:

M. Sharman:	Excused
R. Bergin:	Yes
D. Major:	Yes
J. Prato	Yes
M. Thompson	Yes

Chairperson Rosemary Bergin asked Timothy VanVoorhis to come forward for the Area Variance and a Conditional Use Permit for the proposed Accessory Dwelling in a detached Garage. Tim stated they would like to construct a detached two-story two-car Garage with a second-story in-law apartment for his wife's parents to enjoy the area seasonally. The Variance is because the accessory structure exceeds 40% of the area of the primary structure, and Conditional Use is requested for the Accessory Dwelling. Joe Prato asked if there was an issue with the total Lot Coverage. ZCA Julie Holtje stated the existing Lot Coverage at 14%, and with the proposed Garage and Addition, it will be at 18.9%. Doug Major asked for clarification on the square footage. ZCA Julie Holtje stated that according to the Assessor's records, the square footage is 1519 Sq. Ft. and 40% of that would be 607.6 Sq. Ft. allowed. They are proposing 746 Sq. Ft. which would be 49%. Doug Major noted that there were several supporting neighbors but asked if they had spoken to the neighbors across the street as they would be the ones who would be the most affected. Tim stated that they are currently in the process of moving in and have not had a chance yet to speak with them. They did reach out via email, but they have not heard back. They have done their best to try and take that neighbor's view into consideration. They are proposing to off-center the structure slightly for two reasons. It appeared to them that the primary view of the neighbor behind them would have been through the park that runs just to the north of them, so they offset their proposed building slightly to the south. They also realized where the gas line runs through, and they needed to stay off from that area. Off-centering the

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building seemed to acknowledge both of those concerns. Doug asked if the proposed dwelling was parallel with the two-story dwelling next door. Timothy stated it would run parallel with that. Doug asked how they would be entering the proposed building. Timothy stated that the hope is to have the driveway from Shoreline Drive. The current garage comes off the Park Road, which is stoned. They would like the new driveway to come off Shoreline in hopes that it will be better maintained during the winter months. Rosemary Bergin asked if this would be a year-round home. Timothy stated that the primary dwelling would be a year-round home, but the Accessory Dwelling will be seasonal and used primarily by his in-laws during the summer months. Doug asked if the current garage would no longer be used for cars and if the new garage would be utilized. Timothy stated that currently, the existing garage is used for storage due to the size of the home. They will utilize the new garage for their cars. Possibly at some point, they may decide to utilize the existing garage for their cars. They plan to access the property off Shoreline Drive. CEO Adam Backus asked for clarification that the new structure will be used for their in-laws and not a rental property. Timothy stated that their intentions are to use the new structure for his in-laws. When they are not there, it would be unused. Rosemary asked if the neighbors behind them were year-round. Timothy stated that they were year-round residents. Timothy stated that he has had the Public Hearing sign up for the past two weeks, so all the nearby neighbors have been made aware that they are planning a construction. CEO Adam Backus asked if Mr. VanVoorhis was standing in his neighbor's house on Shoreline Drive, would this proposal have any effect on the view of the Lake. Timothy stated that their structure would not be an eye sore for them; it appears that currently, the neighbor's primary view is the north end of the Lake through the park, as opposed to straight down their lot to the Lake. Currently, if you are standing on Shoreline looking at their house, you can't see the Lake.

Chairperson Rosemary Bergin opened the Public Hearing. With no one wishing to speak, the Public Hearing was closed.

Chairperson Rosemary Bergin asked the Board if there were any further questions.

This application was determined not to require Livingston County Planning Board review per Section 239-m and 239-n of Article 12 of the General Municipal Law agreement (# 10).

This application was determined to be a Type II action, and SEQOR was not required per # 12 of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

Chairperson Rosemary Bergin asked the Board to go through the area variance criteria:

1. Will an undesirable change be produced in the character of the neighborhood, or will a detriment to nearby properties be created by granting the variance? No
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? Yes - Could be reduced in size.
3. Is the variance substantial? No

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4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No

5. Is the alleged difficulty self-created? Yes

Chairperson Rosemary Bergin asked the Board for a motion to approve or disapprove the proposed Area Variance for exceeding the 40% requirement. Chairperson Rosemary Bergin made a motion to approve the Area Variance as submitted. Motion to approve. M/2/C (M. Sharman/J. Prato) Carried: 5-0.

Chairperson Rosemary Bergin asked the Board to go through the Conditional Use Permit criteria:

- (1) Will the proposed building or use be in harmony with the general purpose, goals, objectives, and standards of the Comprehensive Plan, this chapter, and, where applicable, Chapter [125](#), Subdivision of Land? Yes No
- (2) Will the proposed building or hours of operation or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare? Yes No
- (3) Will the proposed building or use will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations? Yes No
- (4) Will the proposed building or use be adequately served by essential public facilities and services?
 Yes No Electric, water & sewage tank.
- (5) Will the proposed building or use comply with all additional standards imposed on it by the particular provision of this chapter authorizing such use? Yes No
- (6) Have all steps possible been taken to minimize any adverse effects of the proposed building or use in the immediate vicinity through building design, site design, landscaping, and screening? Yes No
- (7) If appropriate, a performance bond or other suitable financial guarantee has been provided to assure compliance with the conditions of the conditional use permit. Yes No N/A

Chairperson Rosemary Bergin asked the Board for a motion to approve or disapprove the proposed Conditional Use Permit for the Accessory Dwelling. Mary Ann Thompson made a motion to approve the Conditional Use Permit with the condition that it is used per conditions specified in 150-60 Accessory Dwelling units and with the understanding that it will be used for personal family use and not as a rental property. Motion to approve. M/2/C (M. Thompson/J. Prato) Carried: 4-0

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Chairperson Rosemary Bergin asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:07 pm. M/2/C (D. Major/J. Prato) Motion carried: 4-0

Respectfully submitted,
Alison Houk, Recording Secretary